



Office of City Manager

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EPA REGION VIII
SUPERFUND BRANCH

November 1, 2000

Brad Johnson
Utah Department of Environmental Quality
Division of Environmental Response and Remediation
P.O. Box 144840
Salt Lake City, Utah 84114- 4840

Re: **PARK CITY'S CONCERNS AND QUESTIONS REGARDING THE
PROPOSED SOILS ORDINANCE WORK GROUP**

Dear Mr. Johnson,

On September 25, 2000, I sent a letter to Jim Christiansen at U.S. EPA (with a copy to Steven Thiriot at UDEQ), regarding a Soils Ordinance Work Group which Jim Christiansen has proposed to the Upper Silver Creek Watershed Stakeholder's Group. As you may know, the Stakeholder's Group has been meeting for approximately one year to discuss various strategies for conducting a watershed investigation in the Park City area. In my letter I presented a series of questions and concerns to the regulatory agencies about the proposed work group. It is Park City's understanding that Jim Christiansen has now prepared U.S. EPA's response to the letter. It is our further understanding that UDEQ has some reluctance to signing a joint response with U.S. EPA. It is my hope that U.S. EPA, UDEQ, and Park City can come to a mutual understanding about these concerns and questions before proceeding to a public forum. Please accept this letter as a formal request from Park City for a joint and coordinated response from UDEQ and U.S. EPA to the questions and concerns about the work group. For your benefit, my September 25th letter to Jim and Steven is reprinted below in its entirety.

As part of the Upper Silver Creek Watershed Investigation, U.S. EPA has proposed the formation of a work group to address issues related to the *Park City Maintenance of Soil Cover and Landscaping Ordinance* (Park City Municipal

Code Title 11, Chapter 15, Sections 1- 11). Park City has been assigned the task of leading the Soils Ordinance Work Group.

Since initiating the watershed investigation in February 1999, representatives of U.S. EPA and UDEQ have made numerous statements regarding their concerns about the ordinance. However, we have been in the process more than a year and we are unsure if earlier expressions of concerns by the regulators reflect current issues and expectations. Additionally, most pronouncements have come from EPA with few formal statements from UDEQ. We are unsure if EPA and UDEQ have the same concerns or if you have different and possibly mutually exclusive expectations. Finally, some of the regulators' statements if put into policy would place Park City in the untenable position of being responsible for the implementation, administration and enforcement of a regulatory program which was originally agreed to by EPA and UDEQ, but from which EPA and UDEQ now may have effectively withdrawn their endorsement. We need clarification here.

Park City takes seriously its responsibility to protect the health and safety of its citizens and the people who visit here. Park City and its citizens have invested millions of dollars over the past 15 years in implementing the ordinance. However, before proceeding to a public forum where the future duties and regulatory responsibilities of the Park City municipal government will be discussed, Park City requests a clearer understanding of the expectations of EPA and UDEQ regarding the ordinance. Prior to the initiation of a new soils work group, Park City requests that the regulatory agencies adopt a posture of ownership and responsibility for the future success of the ordinance. Park City should not be forced to accept an outcome that does not have the endorsement and backing of the agencies. Park City should not have to retain the sole responsibility for financing and implementing an environmental regulatory program that EPA and UDEQ seem to resist.

However, prior to moving to a public forum, Park City requests that EPA and UDEQ provide a joint written response to the following specific items:

- 1) EPA has held out "regulatory closure" to the City and to the homeowners in the Prospector neighborhoods. What is the status of the law and regulations under CERCLA regarding regulatory closure? Are there any precedents for regulatory closure at a site such as Prospector? Has EPA ever "closed the books" in such a context? What are the specific criteria for closure in Prospector? Do EPA and UDEQ have any standards, criteria, interests, goals or motivations regarding regulatory closure?
- 2) EPA has indicated an interest in conducting environmental studies in Park

City. Park City is concerned about the very real prospect of significant economic stigma associated with such environmental studies, and skeptical of the value of the information such studies may produce. Park City is also concerned about how environmental studies will be financed. Park City is interested in knowing the regulatory options which are available under the particular circumstances in Prospector. What studies will EPA and UDEQ be proposing to the work group?

- 3) Will EPA and UDEQ be making any specific proposals to the work group regarding proposed changes to the soils ordinance and if so what are they?
- 4) What specific proposals will EPA and UDEQ be making to the work group regarding their respective future participation with the ordinance?
- 5) Park City is concerned that the City will incur increased duties and greater regulatory responsibilities as a result of the discussions of the soils work group. Park City is interested in learning what specific funding opportunities are available to assist local municipalities under these circumstances.
- 6) What discretion will EPA grant Park City in organizing the Soils Ordinance Work Group and working with the facilitator?

Park City trusts that EPA and UDEQ will provide a complete assessment of what the regulatory agencies expect from the process and the proposed Soils Ordinance Work Group.

Sincerely,



Toby Ross
City Manager

cc: Steven Thiriot, UDEQ
Jim Christiansen, US EPA